

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BENNY DECARLO GALLEGOS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:23-cv-00090-SAB

**ORDER REQUIRING PLAINTIFF TO
SHOW CAUSE WHY SANCTIONS
SHOULD NOT BE IMPOSED FOR
FAILURE TO FILE OPENING BRIEF**

(ECF No. 5)

DEADLINE: MAY 12, 2023

On January 20, 2023, Plaintiff Benny DeCarlo Gallegos filed this action seeking judicial review of a final decision of the Commissioner of Social Security (“Commissioner”) denying an application for disability benefits pursuant to the Social Security Act. (ECF No. 1.) On January 24, 2023, the Court issued a scheduling order. (ECF No. 5.) Pursuant to the scheduling order, Plaintiff’s motion for summary judgment was due 45 days after service of the administrative record. (Id. at 2.) The administrative record was filed and served on March 24, 2023. (ECF No. 11.) Plaintiff’s motion for summary judgment was therefore due by May 8, 2023. However, an independent review of the docket reveals that, as of May 9, 2023, neither the motion for summary judgment, nor other filings, have been submitted.

Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of the Court.” The Court has the inherent power to

1 control its docket and may, in the exercise of that power, impose sanctions where appropriate,
2 including dismissal of the action. Bautista v. Los Angeles County, 216 F.3d 837, 841 (9th Cir.
3 2000).

4 Plaintiff's failure to timely file the motion for summary judgment constitutes a failure to
5 comply with the Court's order. Accordingly, Plaintiff will be directed to show cause why
6 sanctions should not issue for failure to file the motion for summary judgment in compliance
7 with the Court's January 24, 2023 scheduling order (ECF No. 5).

8 Based on the foregoing, IT IS HEREBY ORDERED that **no later than May 12, 2023**,
9 Plaintiff shall show cause in writing why sanctions should not issue for the failure to comply
10 with the Court's orders and timely file a motion for summary judgment in this matter. Failure
11 to comply with this order will result in the imposition of sanctions up to and including
12 dismissal of this action.

13
14 IT IS SO ORDERED.

15 Dated: **May 9, 2023**


UNITED STATES MAGISTRATE JUDGE